

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MAURICIO MUÑOZ,

Plaintiff,

-v-

9:11-CV-111

SUPERINTENDENT/WARDEN; BRIAN
FISCHER; THE STATE OF NEW YORK;
NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES; JOHN DOE;
JANE DOE 1; and JANE DOE 2,

Defendants.

APPEARANCES:

OF COUNSEL:

MAURICIO MUÑOZ, pro se
08-A-3862
Eastern NY Correctional Facility
Box 338
Napanoch, NY 12458

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On September 29, 2011, the Honorable George H. Lowe, United States Magistrate Judge, advised, by Report-Recommendation, that: (1) plaintiff's claim regarding the failure to clear the icy walkway be dismissed with leave to amend; (2) the complaint be served on defendant Brian Fischer; (3) plaintiff's claims against the "Superintendent/Warden" be dismissed for lack of personal involvement with leave to amend; and (4) plaintiff's claims against the State

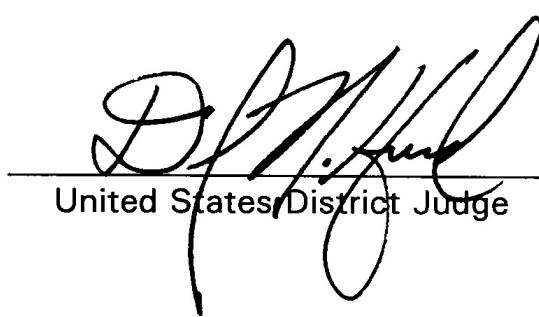
of New York and the New York State Department of Correctional Services be dismissed without leave to amend. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. Plaintiff's claim regarding the failure to clear the icy walkway is DISMISSED with leave to amend;
2. The complaint be served on defendant Brian Fischer;
3. Plaintiff's claims against the "Superintendent/Warden" are DISMISSED for lack of personal involvement with leave to amend; and
4. Plaintiff's claims against the State of New York and the New York State Department of Correctional Services are DISMISSED without leave to amend.

IT IS SO ORDERED.



United States District Judge

Dated: October 25 , 2011
Utica, New York.